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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,955	12/04/2001	Marc Ivor John Beale	MSL-1	3437

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EXAMINER

SHAPIRO, LEONID

ART UNIT	PAPER NUMBER
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2629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/980,955	Applicant(s) BEALE, MARC IVOR JOHN	
	Examiner Leonid Shapiro	Art Unit 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,5,10,15,21,23,24 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6-9,11-14,16-20,22,25-33,35-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

1. Claims 1,3,6-9,12,14,16-20,22,25-29,31-33,35-38 rejected under 35

U.S.C. 102(b) as being anticipated by **Vayda et al (5,745,717)**.

2. As to claims 1,20,22, 25, **Vayda et al (here in after Vayda)**, discloses a communication system comprising: means defining a communication region having associated therewith a plurality of symbols (figs.3-6,8-11. For example see fig.5 “*EDIT,PRINT, TOOLS,SET-UP*” (col.6, lines 23-45) and being responsive to a user controlled pointing device (fig.7 (713)) whereby a desired symbol can be selected by detecting movement of the pointing device along a predetermined bearing with the communication region (col.7, lines 9-34), the predetermined bearing being substantially parallel to a direction of the desired symbol of the like relative to a central region of the communication region within a tolerance determined by the angular separation of adjacent symbols and being offset relative to the location of the symbol to be selected (col.7, lines 35-44, see where the symbols “*EDIT,PRINT, TOOLS,SET-UP*” are angularly separated and tolerance (or offset) is inherent in such latitude of movement).

Notice, inherent tolerance or offset being not connected to any structural differences and by itself does not require the exercise of inventive skill and therefore is not patentable.

Art Unit: 2629

3. As to claims 3, 6-8, **Vayda** discloses a plurality of symbol entry regions are provided each having associated therewith a plurality of symbols (fig. 5 *EDIT, PRINT, TOOLS, SET-UP*) and each being responsive to the user-controlled pointing device whereby a desired symbol can be selected by movement of the pointing device along the predetermined bearing within the region with which the desired symbol is associated (see, col7, lines 9-44).

4. As to claim 9, **Vayda** furthermore teaches two sets of communication regions are provided (for example see fig.5 (*EDIT, PRINT*)).

5. As to claims 12 and 31, **Vayda** teaches means is provided for selecting further symbols or the like by employing a different form of movement form that require to select from the basic symbols (see, col.15, lines 35-46 , col.16, lines 41-50, "using scrolling" , col.17, lines 15-67).

6. In regard to claims 14,31-33, **Vayda** the symbols or the like may be selected on the basis of the speed of movement of the pointing device (col.7, lines 35-44) or combination of movements (see, col.15, lines 35-46 , col.16, lines 41-50, "using scrolling" , col.17, lines 15-67). It is obvious that the selection is based on how fast you move the input device.

Art Unit: 2629

7. As to claims 16-18, 35-37, **Vayda** teaches that the combination movement includes a linear movement in a first direction that is and/or end thereof or reversing the first direction (for example see, fig.5. linear movement direction to select "EDIT" and then in reverse direction to select "TOOL") or two sequential linear movements at a predetermined angle to each other (fig.11, two sequential linear movements "A" and "F").

As to claims 19 and 38, **Vayda** teaches that the region or the regions are touch screen (see, fig.7, col.16, lines 41-50).

As to claims 26,27,28,29, **Vayda** discloses having three communication regions, each regions having associated therewith a plurality of symbols (fig.11 "ABCDEF"; "GHIJK" etc.), a desired symbol or the like being selected by movement within the region having the desired symbol or the like associated therewith in a predetermined direction relative to the desired symbol or the like (for example in fig.11 symbols "A" , "B", "C" or "D" can be selected within the region).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 11 and 13,30 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Vayda** in view of **Kinawi et al** (6,545,669)

As to claims 11 and 13,30, **Vayda** also discloses means is provided for selecting a further symbol or the like arranged within an area encompassed by each region (see, fig.11 (ABCDF), col.10, lines 30-42). **Vayda** did not expressly detailed the selection is done by **tapping** the area within the desired region. However, the patent of **Kinawi et al** clearly states that it is well known for touch screen display system to select symbols by tapping the desired region (see, col.2, lines 7-20, col.5, lines 51-63).

Therefore, it would have been obvious to one skill in the art at the time of the invention was made to have been motivated to substitute **Kinawi et al's** tapping method of selecting an object with **Vayda's** system of selection system because this is an alternative a simple and easy method to select an object when using a touch screen display.

Response to Arguments

9. Applicant's arguments filed on 06/27/06 have been fully considered but they are not persuasive:

On page 2, last paragraph of Remarks, Applicant's stated that Nowhere does the Examiner assert that either Vayda et al. or Kinawi et al. teaches or suggests the requirement that the predetermined bearing, along which the pointing device is moved for selection of a desired symbol, be "offset relative to the location of the symbol to be selected." However, limitations of claim 1 and 20: "...within a tolerance determined by the angular separation of adjacent symbols and being offset relative to the location of the symbol to be selected" is **inherent** as confirmed by Applicant's (see last paragraph

Art Unit: 2629

on page 4 of the Remarks: "The tolerance that is **inherent** in such latitude of movement affords considerable flexibility..."

Notice, **inherent** tolerance or offset being not connected to any structural differences and by itself does not require the exercise of inventive skill and therefore is not patentable.

On pages 3-4 of the Remarks, Applicant's stated that that the predetermined bearing along which the pointing device is moved, for selection of a desired symbol, need pass neither through the symbol nor through a central region of the defined communication region. It is unique to the invention that an effective bearing for selection can extend parallel to and offset from both the desired symbol and also the central region and that Vayda et al. is concerned only with radial movement. However, claims 1 and 20 limit itself to: "detecting movement of the pointing device along a predetermined bearing within the communication region, the predetermined bearing being substantially parallel to a direction of the desired symbol relative to a **central region** of the communication region within a tolerance ...". Therefore, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (see above) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Telephone Inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid Shapiro whose telephone number is 571-272-7683. The examiner can normally be reached on 8 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2629

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LS
02.02.07



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